

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

SEP 23 2010

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

CARISSA C.,	)	2 CA-JV 2010-0055
	)	DEPARTMENT B
Appellant,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 28, Rules of Civil
ARIZONA DEPARTMENT OF ECONOMIC	)	Appellate Procedure
SECURITY and CHANCE C.,	)	
	)	
Appellees.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. J17940400

Honorable Kathleen A. Quigley, Judge Pro Tempore

AFFIRMED

Sarah Michèle Martin

Tucson  
Attorney for Appellant

Terry Goddard, Arizona Attorney General  
By Claudia Acosta Collings

Tucson  
Attorneys for Appellee

ECKERSTROM, Judge.

¶1 Appellant Carissa C. challenges the juvenile court's order of May 12, 2010, terminating her parental rights to Chance C., the third of her four children, pursuant to A.R.S. § 8-533(B)(11), based on his having been removed from her legal custody in 2006, returned to her in 2008, and then removed again within eighteen months. On appeal, Carissa contends the evidence was insufficient to establish either the statutory ground for severance or that terminating her rights was in Chance's best interests.

¶2 Before it may terminate a parent's rights, a juvenile court must find by clear and convincing evidence that at least one statutory ground for severance exists, and it must find by a preponderance of the evidence that terminating a parent's rights is in the best interests of the child. *See* A.R.S. §§ 8-533(B), 8-537(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005). We will affirm a severance order unless we must say as a matter of law that no reasonable person could find those essential elements proven by the applicable evidentiary standard. *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, ¶ 9, 210 P.3d 1263, 1265-66 (App. 2009). We view the evidence in the light most favorable to upholding the court's order. *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, ¶ 2, 181 P.3d 1126, 1128 (App. 2008).

¶3 The statutory ground on which the juvenile court ordered Carissa's rights terminated, § 8-533(B)(11), requires proof of all of the following elements:

(a) The child was cared for in an out-of-home placement pursuant to court order.

(b) The agency responsible for the care of the child made diligent efforts to provide appropriate reunification services.

(c) The child, pursuant to court order, was returned to the legal custody of the parent from whom the child had been removed.

(d) Within eighteen months after the child was returned, pursuant to court order, the child was removed from that parent's legal custody, the child is being cared for in an out-of-home placement under the supervision of the juvenile court, the division or a licensed child welfare agency and the parent is currently unable to discharge parental responsibilities.

Of these various criteria, Carissa disputes only the sufficiency of the evidence to prove that she is currently unable to discharge her parental responsibilities to Chance.

¶4 In October 2006, when Chance was seven years old, his sisters Devon and Briell were eleven and twelve, and his brother Ethan had just turned one, the Arizona Department of Economic Security (ADES) took all four children into protective custody. Carissa stipulated to the adjudication of dependency entered in January 2007. In April 2007, Chance was returned to Carissa's physical custody, where he remained until May 18, 2009. His mother had regained legal custody of Chance on December 4, 2008, when the first dependency proceeding was dismissed as to Chance and his oldest sister Briell. Less than six months later, however, ADES took both children back into protective custody, and Carissa again stipulated that they were dependent. On July 2, 2009, the juvenile court entered its order adjudicating Chance dependent and again awarded legal custody to ADES. Following a permanency hearing, ADES filed a motion to terminate Carissa's parental rights in November 2009, and a contested severance hearing was held over three days in March 2010.

¶5 In granting the motion to terminate Carissa’s parental rights to Chance, the juvenile court prepared a thorough minute entry setting forth its factual findings and legal conclusions. The court devoted a substantial portion of its discussion in that order to the two issues Carissa has raised on appeal. The record contains substantial evidence to support the court’s factual findings with respect to both of those issues, *see Denise R.*, 221 Ariz. 92, ¶ 4, 210 P.3d at 1264-65 (factual findings upheld if supported by reasonable evidence), and the court’s factual findings, in turn, support its legal conclusion that severing Carissa’s rights was both warranted under § 8-533(B)(11) and was in Chance’s best interests pursuant to § 8-533(B). We therefore adopt the court’s findings of fact and approve its conclusions of law. *See Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, ¶ 16, 53 P.3d 203, 207-08 (App. 2002), *quoting State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶6 Finding no basis on which to disturb the juvenile court’s ruling, we affirm its order terminating Carissa’s parental rights to Chance.

/s/ Peter J. Eckerstrom  
PETER J. ECKERSTROM, Judge

CONCURRING:

/s/ Garye L. Vásquez  
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly  
VIRGINIA C. KELLY, Judge